HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A. No. 14/2007

Single Bench: **Hon'ble Shri Dilip Raosaheb Deshmukh, J.**

Appellant **Plaintiff**		Devnarayan Mishra, S/o Late Chandrika Prasad Mishra, Aged about 48 years, Occupation – Private Service, R/o Near Mission Chowk, Ring Road, Ambikapur, P.S. & Tahsil Ambikapur, District Sarguja. **Versus**
RESPONDENTS **Defendants**	1.	Smt. Kaushilya, Wd/o Late Lalan Mishra, Occupation – Service in T.C.P.C., Ambikapur, R/o Near Gurukul School, Nawapara, Ambikapur, District Sarguja (C.G.)
	2.	The State of Chhattisgarh, Through : Collector, Sarguja, At/Post Ambikapur, District Sarguja, (C.G.)
	3.	Tahsildar, Ambikapur, District – Sarguja (C.G.)

APPEAL UNDER U/O 43, Rule 1(r) OF THE CODE OF CIVIL PROCEDURE

Present: - Shri A.K. Prasad, counsel for the appellant.

Shri Akhil Agrawal, PL for State.

ORAL ORDER

(Passed on 19th April, 2007)

Heard on admission.

2. The appellant is aggrieved by an order dated 16.3.2007 passed by the District Judge, Surguja, Ambikapur in civil suit No. 9-A/2006 whereby the application for grant of temporary injunction filed by the appellant/defendant under-Order 39 Rule-1& 2 read with Section 151 of C.P.C. was dismissed on the ground that appellant/plaintiff had no *prima-facie* case.

3. Breif facts are that upon a complaint lodged by the respondent No.2/defendant regarding encroachment of Government land by the appellant/plaintiff, Tahsildar, Ambikapur had started revenue proceedings and passed an order dated 4.7.2006 to remove the unauthorized

occupation and to evict the appellant/plaintiff. The appellant/plaintiff filed a civil suit No.9-A/2006 on the ground that he was in adverse possession of the suit land and the house situate thereon. An application under Order-39 Rule-1 & 2 read with Section 151 of C.P.C for restraining the defendants No.2 & 3 from evicting him from the suit land was filed by the plaintiff. Learned lower Court held that the appellant/plaintiff did not have a *prima-facie* case since there was no material to show that he was in possession of the land since last 35 years. It also observed that the mere fact that on 12.1.2004, the appellant/plaintiff made an application for issuance of 'Patta' regarding the suit land went to falsify his claim regarding perfection of title by adverse possession. I have perused the impugned order passed by the learned District Judge, Surguja dated 16.3.2007 and am of the considered opinion that the order is impeccable and the appeal being devoid of merit is liable to be dismissed, at the stage of admission.

4. Accordingly, the appeal is dismissed.

5. In view of the above, I.A. No. 1/2007 for grant of status quo is also dismissed.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Priya